

EXHIBIT 1

INTRODUCTION

From April of 1992 through January 3, 1999, Respondent Gerald Geismar was the Executive Director of the Employment Training Panel, a state agency that provides funding to employees and companies within California for the purpose of training employees. Mr. Geismar made and participated in making governmental decisions in which he had financial interests.

For purposes of this Stipulation, the violations of the Political Reform Act¹ are as follows:

COUNTS 1 - 7: Respondent made and participated in making governmental decisions in which he had a financial interest, in violation of Government Code sections 87100 and 87103.

RESPONDENT: Gerald Geismar

SUMMARY OF THE LAW

COUNTS 1-7

The Act states that: “Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the interests of persons who have supported them.” (Section 81011, subdivision (b).) In order to accomplish this purpose, Section 87100 prohibits a public official from making, participating in making, or attempting to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

A public official makes a governmental decision when the official, acting within the authority of his or her office or position: votes on a matter; appoints a person; obligates or commits his or her agency to a course of action; enters into any contractual agreement on behalf of his or her agency; or determines not to act in one of these manners. (Regulation 18702.1.)

In addition, a public official participates in making a governmental decision when he or she “advises or makes recommendations to the decisionmaker either directly or without significant intervening substantive review.” (Regulation 18702.2.) An official advises or makes recommendations when he or she “prepares or presents any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official and the purpose of which is to influence a governmental decision.” (Regulation 18702.2, subdivision (b)(2).)

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more. (Section 87103, subdivision (a).)

Regulation 18704.1, subdivision (a) provides that a person, including business entities, sources of income and sources of gifts, is directly involved in a decision before an official's agency if that person initiates the proceeding in which the decision will be made by filing an application, claim, appeal, or similar request. In addition, the person is directly involved if he or she is a named party in, or is the subject of the proceeding concerning the decision before the official or the official's agency.

Regulation 18705.1 states that the effect of a decision is material on any business entity in which the official has a direct or indirect investment of \$10,000 or more, if the business is listed on the New York Stock Exchange, on the American Stock Exchange, or on the National Association of Securities Dealers National Market List, and the business is directly involved in a decision before the official's agency. Regulation 18705.1 also states that a decision is material on any business entity in which the official has a direct or indirect investment of \$1,000 or more, other than one that is listed on the New York Stock Exchange, on the American Stock Exchange or on the National Association of Securities Dealers National Market List, and the business is directly involved in a decision before the official's agency.

SUMMARY OF THE FACTS

COUNTS 1-7

The Employment Training Panel ("ETP") was created by legislation in 1982 to address several employment issues facing the State of California, including: the lack of an adequate number of jobs in the state to meet the needs of those seeking employment; the inability of employers in new and expanding industries to find the skilled workers they need; the need to put unemployment insurance recipients back to work by encouraging employers to locate and expand facilities within California and by training those recipients to fill those vacant jobs; the need to foster job creation; and the need to reduce the number of unemployment insurance claimants and recent claimants whose benefits expired but who have remained unemployed.

The ETP's enabling statute, Unemployment Insurance Code Section 10200, et seq., specifies that funds made available by the ETP shall be used to supplement, but not displace funds available through existing programs conducted by employers and government-funded training programs.

The ETP is comprised of eight appointed members. The Executive Director and two Assistant Directors are also appointed. From April of 1992 through January 3, 1999, Mr. Geismar was the ETP's Executive Director.

As the Executive Director, Mr. Geismar was responsible for making recommendations to the ETP on training contracts, policy issues, and annual budgets; executing contracts on behalf of the ETP

following ETP review and approval of such contracts; and negotiating, executing, and approving technical, nonsubstantive amendments to ETP contracts and informing the ETP of these actions.

For grant applications of more than one hundred thousand dollars (\$100,000) Mr. Geismar was obligated to review the grant applications and decide whether to present those applications to the ETP for approval. Pursuant to Regulation 18702.2, Mr. Geismar participated in making governmental decisions when he reviewed the grant applications, and made decisions whether to present those applications to the ETP for final approval. Once the ETP approved a grant application, Mr. Geismar signed the final agreement on behalf of the ETP, thereby entering into a contractual agreement on behalf of the ETP. Pursuant to Regulation 18702.1, each time Mr. Geismar signed an agreement between the ETP and a recipient of the training funds, he made a governmental decision.

Furthermore, Mr. Geismar was authorized to approve grant applications of one hundred thousand dollars (\$100,000) or less, subject to review of the ETP. In approving these grant applications, Mr. Geismar made governmental decisions, as defined by Regulation 18702.1.

Throughout his tenure at the ETP, Mr. Geismar timely filed his Statements of Economic Interests ("SEIs"). According to those SEIs, Mr. Geismar had significant holdings in a number of companies. Mr. Geismar participated in making and made governmental decisions directly involving business entities in which he had an investment interest of ten thousand dollars (\$10,000) or more as follows:

Count 1

On or about March 7, 1996, Mr. Geismar reviewed a grant application from ATT Global Communications (contractor Lucent Technologies) to the ETP, and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$175,944. On or about May 8, 1997, Mr. Geismar reviewed a request for an amendment to the grant that extended the term length of the training contract by 6 months, and recommended that the ETP approve the amendment. Mr. Geismar signed the contract approving the amendment on behalf of the ETP. Throughout this period, Mr. Geismar had an investment interest in ATT Global Communications of \$10,000 or more.

Count 2

On or about September 12, 1996, Mr. Geismar reviewed a grant application from Airtouch Communications to the ETP, and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$780,000. On or about March 10, 1997, Mr. Geismar reviewed a request for an amendment to the grant, and recommended that the ETP provide an additional \$500,000 for training. Mr. Geismar signed the contract approving the amendment on behalf of the ETP. Throughout this period, Mr. Geismar had an investment interest in Airtouch Communications of \$10,000 or more.

Count 3

On or about February 19, 1997, Mr. Geismar reviewed a grant application from Lucent Technologies, and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$418,800. Throughout this period, Mr. Geismar had an investment interest in Lucent Technologies of \$10,000 or more.

Count 4

On or about May 12, 1997, Mr. Geismar reviewed a grant application from PACTEL/SBC, and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$930,888.

On or about September 26, 1997, Mr. Geismar approved an amendment to the grant that provided additional funds of \$18,288 for training. On or about May 5, 1998, Mr. Geismar approved an amendment to the application that changed the length of the contract. On or about May 29, 1998 Mr. Geismar reviewed a request for an amendment from PACTEL/SBC, and recommended that the ETP provide additional funds of \$227,400 for training. On or about September 16, 1998, Mr. Geismar reviewed another request for an amendment, and recommended that the ETP provide additional funds of \$300,486. Mr. Geismar signed all of the contracts approving the amendments on behalf of the ETP.

Throughout this period, Mr. Geismar had an investment interest in PACTEL/SBC of \$10,000 or more.

Count 5

On or about October 15, 1997, Mr. Geismar reviewed a grant application from GTE, and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$386,428. Throughout this period, Mr. Geismar had an investment interest in GTE of \$10,000 or more.

Count 6

On or about December 22, 1997, Mr. Geismar reviewed a grant application from Bell Atlantic Professional Services and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$224,616. Throughout this period, Mr. Geismar had an investment interest in Bell Atlantic Professional Services of \$10,000 or more.

Count 7

On or about March 12, 1998, Mr. Geismar reviewed a grant application from AeroQuip-Vickers and recommended it to the ETP for approval. Thereafter, Mr. Geismar signed the contract approving the grant on behalf of the ETP. The value of the grant was \$248,616. Throughout this period, Mr. Geismar had an investment interest in AeroQuip-Vickers of \$10,000 or more.

RECOMMENDATIONS

Mr. Geismar states that in the seven years that he served as Executive Director of the ETP, almost 2,000 training grants were approved through the ETP program. He further states that any qualified entity could receive an ETP grant, if it filed a properly completed application. During the time he served as the Executive Director, Mr. Geismar asserts that fewer than a dozen contracts were rejected. In each case in which a rejection occurred, Mr. Geismar claims the applicant either did not qualify for the program or failed to properly prepare the application.

Mr. Geismar properly reported his investment interests on his SEIs. Furthermore, Mr. Geismar timely filed all of his SEIs. On September 17, 1998, Mr. Geismar was advised by the Commission's Legal Division that he had a disqualifying financial interest in his investments of \$10,000 or more, and that he should not review applications, recommend applications to the ETP or sign contracts on behalf of ETP involving those interests. Thereafter, Mr. Geismar did not make or participate in making governmental decisions involving any applicants with whom he had investment interests.

This matter consists of seven counts, which carry a maximum possible administrative fine of Fourteen Thousand Dollars (\$14,000). The facts of the case justify imposition of a fine, up to and including of Fourteen Thousand Dollars (\$14,000), as determined by the Commission. In making its determination as to the appropriateness of the fine, the Commission is entitled to consider such factors as the seriousness of the violation, the presence or absence of any intention to conceal, deceive, or mislead, and whether the violation was deliberate, negligent or inadvertent. (Regulation 18361, subd. (e)(4).)